No. 73-1361

FILED
MAY 23 1974

In the Supreme Court of the United States

OCTOBER TERM, 1973

FRED BALDRIDGE, ET AL., PETITIONERS

v.

JOHN R. HADLEY, ET AL.,

AND

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

In the Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1361

FRED BALDRIDGE, ET AL., PETITIONERS

v.

JOHN R. HADLEY, ET AL.,

AND

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

This action was brought in the United States District Court for the District of New Mexico for *de novo* review pursuant to 7 U.S.C. (1964 ed.) 1831(d) of a determination by the New Mexico State Agricultural Stabilization and Conservation Committee that Fred Baldridge had engaged in a scheme or device to evade the $5,000 maximum annual payment limitations of the soil bank program. 21 Fed. Reg. 6296, 8793 (1956). The Committee had ordered Baldridge to refund monies received from lands placed in the soil bank by Baldridge and his relatives. The district court and the court of appeals affirmed (Pet. Att. 1 and 2).

Briefly summarized, the scheme was as follows (See Pet. Att. 1, pp. 3-8). One Draper agreed to sell his farm to Baldridge. The farm was divided into seven parcels. Baldridge bought one parcel, five of his relatives each formally purchased a parcel, and Draper retained the other parcel. The deeds to each parcel were placed in escrow, to be delivered to Baldridge when the land was paid for, in consideration for Baldridge conforming the land for entry into the soil bank (a task requiring little effort). The buyers were to pay Draper solely from the proceeds of soil bank payments made by the government. The notes they signed specifically precluded Draper from collecting deficiency judgments from them in the event of default.

The purpose of the scheme was to evade the $5,000 annual maximum payment limitation on any one producer established by regulation pursuant to the Act. 7 C.F.R. 750.294i (1963 rev.). Had the scheme succeeded, Baldridge would have become the owner of the entire Draper farm, the purchase price having been paid entirely by the government under the soil bank program. Baldridge would thus have received the benefit of soil bank payments well in excess of the maximum limitations.

When the scheme was discovered, the local Committee requested an investigation by the Agriculture Department. As a result of that investigation, the State Committee, after administrative proceedings held pursuant to 7 U.S.C. (1964 ed.) 1831(d), cancelled the soil bank contracts and ordered refund of the monies paid thereunder. The Committee determined that Baldridge had employed a scheme or device to evade the maximum payment limitation and that the contracts were void from their inception. The Committee further determined that the scheme was for the benefit of

Baldridge alone, and that he therefore was responsible for refunding the amounts paid to all participants in the scheme.

Baldridge and two participants in the scheme brought an action in the district court for *de novo* review of the Committee determination. The district court affirmed, finding that Baldridge had obtained the soil bank payments by fraud. The court of appeals affirmed.

1. The rulings of both courts below that Baldridge engaged in a scheme or device to evade the maximum payment limitations of the soil bank program are correct, and do not warrant further review. The decisive issue here is factual—whether Baldridge engaged in such a scheme. This issue was determined adversely to petitioner by the State Committee, the district court upheld that determination after a trial *de novo,* and the court of appeals affirmed. Indeed, there could have been no purpose for the complicated scheme other than evasion of the maximum payment limitations.

2. Petitioners' sole legal argument—that under New Mexico law the holder of record title must be considered the beneficial as well as legal owner of property, and therefore the strawmen holding bare legal title were the actual "producers" rather than Baldridge—presents only a question of state law. But whatever may be the New Mexico rule,[1] it has no application to this case because actions under the Soil Bank Act are governed by federal law. *Clearfield Trust Co.* v. *United States,* 318 U.S. 363; *United States* v. *Sommerville,* 324 F. 2d 712 (C.A. 3); *Reimann* v. *United States,* 315 F.

---

[1]The distinction between beneficial and legal ownership is recognized in New Mexico. See, *e.g., Mesich* v. *Board of County Commissioners,* 46 N.M. 412, 129 P. 2d 974; *Gregg* v. *Gardner,* 73 N.M. 347, 388 P. 2d 68.

2d 746 (C.A. 9). Regardless of the state characteriza
of Baldridge's interest in the Draper farm, the Act
quires a refund of payments if the entire series of tr
actions by Baldridge manifests a scheme to evade
maximum payment limitations of the soil bank prog

Contrary to petitioner's contention, this decision
not conflict with *United States* v. *Lazy FC Ranch,*
F. 2d 985 (C.A. 9). There the court rejected the gov
ment's contention that partners in a ranch had eng
in sham transactions to evade the payment limita
because the partners had relied upon the advice
encouragement of a local government official in ma
the arrangements. Here, however, the government wa
aware of the scheme during its first eight years an
soon as the government learned of it, it took expedi
action to recover monies paid in violation of its regulati

It is therefore respectfully submitted that the pet
for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

MAY 1974.